

### REMARKS

In the Office Action dated August 25, 2004, claims 1-32 were rejected. Claims 1-32 are now pending in the application. In view of the remarks, Applicant respectfully requests reconsideration of the application.

Claims 20-22, and 24-31 were rejected under U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,578,047 (hereinafter Deguchi). Applicant respectfully disagrees and notes that Deguchi should not be considered a prior art reference under 102(e). In the prior response, Applicant submitted an affidavit under 37 CFR 1.131 for showing that the present application and Deguchi are commonly owned, therefore showing that Deguchi is not a prior art reference under 102(e).

Therefore, Claims 20 and 26 are in a condition for allowance. In addition, Claims 21-25 depend directly or indirectly on Claim 20 and Claims 27-31 depend directly or indirectly on Claim 26. Accordingly, Claims 21-25 and 27-31 are also in a condition for allowance.

Claim 23 was rejected under U.S.C. § 103(a) as being unpatentable over Deguchi. Claim 23 depends directly or indirectly on Claim 20, and Claim 20 is allowable for the same reasons as stated above. Accordingly, Claim 23 is also in a condition for allowance.

Claims 1-11, 14-16 and 32 were rejected under U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,850,218 (hereinafter LaJoie) in view of U.S. Patent No. 6,680,714 (hereinafter Wilmore).

Applicant amended Claims 1 and 32 to include the limitation of:

wherein said data mark indicates a time and said data  
mark represents content that is broadcasted at said

time wherein said time is after a start time of said  
content and said time is before an end time for said  
content

LaJoie teaches use of an interactive programming guide that allows a user to select specific programming from a plurality of choices. The Examiner references Figure 16 with elements 346, 348, and 350 with regard to said data mark in the present application. Applicant respectfully disagrees. Applicant believes that element 346 indicates a start time and an end time that a particular program is being broadcasted in marked contrast to said data mark of the present application where the said data mark indicates a specific time after the start time and before the end time. Further, elements 348 and 350 of LaJoie also fail to teach said data mark of the present application. Accordingly, LaJoie fails to teach, hint or suggest a data mark that indicates a time.

Therefore, LaJoie in combination with Wilmore fails to render Claims 1 and 32 unpatentable. Thus, independent Claims 1 and 32 are in condition for allowance. In addition, Claims 2-11, and 14-16 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above.

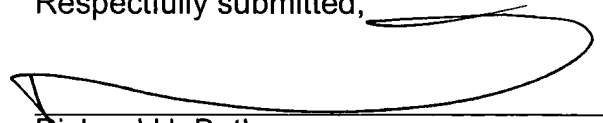
Claims 12-13 and 17-19 were rejected under U.S.C. § 103(a) as being unpatentable over LaJoie in view of Wilmore further in view of U.S. Patent No. 6,507,727 (hereinafter Henrick). Claims 12-13, and 17-19 depend directly or indirectly on Claim 1 and therefore, are patentable for at least the same reasons discussed above.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all pending claims are in condition for allowance. Such allowance is respectfully requested.

If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully requested to contact Richard H. Butler at (408) 223-9763.

Respectfully submitted,

Dated: 11/8/04

  
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